

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Gavin	Team: Squad #1	CCRB Case #: 201808741	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 09/21/2018 2:20 AM	Location of Incident: Outside of 160 Hamilton Avenue	Precinct: 76	18 Mo. SOL 3/21/2020	EO SOL 11/5/2020	
Date/Time CV Reported Sat, 10/20/2018 8:52 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 10/20/2018 8:52 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Ali Sheppard	09044	939460	076 PCT
2. LT Nicholas Corrado	00000	943105	076 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Yerlin Gomez	23362	964022	076 PCT
2. POM Hekuran Neziri	16603	957897	076 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Ali Sheppard	Abuse: Police Officer Ali Sheppard stopped the vehicle in which § 87(2)(b) was an occupant.	
B.LT Nicholas Corrado	Abuse: Lieutenant Nicholas Corrado frisked § 87(2)(b)	
C.LT Nicholas Corrado	Abuse: Lieutenant Nicholas Corrado searched § 87(2)(b)	
D.LT Nicholas Corrado	Abuse: Lieutenant Nicholas Corrado detained § 87(2)(b)	

Case Summary

On October 20, 2018, § 87(2)(b) filed this complaint with the CCRB via the on-line website.

On September 21, 2018, at approximately 2:20 a.m., § 87(2)(b) was driving out of the Brooklyn Motor Inn parking lot, in Brooklyn, when two NYPD officers, PO Ali Sheppard and PO Yerlin Gomez, of the 76th Precinct, stopped § 87(2)(b)'s vehicle for unlawful window tints (**Allegation A: Abuse of Authority:** § 87(2)(g)).

PO Sheppard asked § 87(2)(b) to step out of the vehicle, frisked and searched § 87(2)(b) (**Allegation B: Abuse of Authority:** § 87(2)(g)) (**Allegation C: Abuse of Authority:** § 87(2)(g)). § 87(2)(b) handcuffed § 87(2)(b) and brought him to the 76th Precinct stationhouse (**Allegation D: Abuse of Authority:** § 87(2)(g)). Approximately twenty minutes later, § 87(2)(b) was released from the stationhouse and received a summons for the window tints.

Two body-worn camera videos are available for this case, and these videos are documented in IA #'s 27 and 28 (Board Review 01 and Board Review 02).

Findings and Recommendations

Allegation A: Abuse of Authority: Police Officer Ali Sheppard stopped the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) testified that he was leaving the Brooklyn Motor Inn at approximately 2:20 AM on September 21, 2018. § 87(2)(b) was with a woman whom he refused to identify. PO Sheppard pulled § 87(2)(b) over on Hamilton Avenue, almost immediately after driving out of the Brooklyn Motor Inn parking lot. PO Sheppard asked § 87(2)(b) for his license and registration, and told § 87(2)(b) that he was pulled over for unlawful window tints. Each window of § 87(2)(b)'s vehicle is tinted. § 87(2)(b) complied and gave PO Sheppard his license and registration (Board Review 03).

PO Sheppard testified that he and his partner, PO Gomez, were looking for vehicles with unlawful window tints and pulled § 87(2)(b)'s vehicle over when he observed the vehicle leaving the Brooklyn Motor Inn parking lot. PO Sheppard issued § 87(2)(b) a 'C' summons for unlawful window tints (Board Review 04 and Board Review 05).

New York State Vehicle Traffic Law Article 9, Section 375 12 (a) (1) states that no person shall operate any motor vehicle where the front windshield has a light transmittance of less than seventy percent (Board Review 06).

§ 87(2)(b), § 87(2)(g)

Allegation B: Lieutenant Nicholas Corrado frisked § 87(2)(b)

Allegation C: Lieutenant Nicholas Corrado searched § 87(2)(b)

Allegation D: Lieutenant Nicholas Corrado detained § 87(2)(b)

§ 87(2)(b) testified that four additional officers arrived at the location after his vehicle was stopped, including an officer in a white shirt. PO Sheppard returned to § 87(2)(b)'s vehicle after checking his identification and told him that he had a warrant for marijuana. § 87(2)(b) § 87(2)(b) told PO Sheppard that he was § 87(2)(b) and that he had no warrants. PO Sheppard told § 87(2)(b) that the officers were taking him to the stationhouse. § 87(2)(b) complied, stepped out of his vehicle, and PO Sheppard patted down § 87(2)(b)'s waist, chest, arms, and socks, and searched his pants pockets. No marijuana was recovered and § 87(2)(b)'s vehicle was not searched. PO Sheppard handcuffed § 87(2)(b) placed him into his police vehicle, and drove to the precinct stationhouse. At the precinct, § 87(2)(b) was searched again at the desk and placed into a holding cell. Approximately twenty minutes later, PO Sheppard came to the holding cell area and told § 87(2)(b) that there was a misunderstanding and that the officers thought they needed to arrest § 87(2)(b). PO Sheppard issued § 87(2)(b) a summons for window tints, and § 87(2)(b) left the stationhouse (Board Review 03).

PO Sheppard testified that when he ran § 87(2)(b)'s license, the information displayed created a 'conflict' as to whether the officers needed to arrest § 87(2)(b). PO Sheppard did not know what the exact display said. This information was different from what is normally displayed when a person has an I-Card, which reads, "I-Card" in red letters, and officers must arrest individuals with I-Cards. PO Sheppard called Lt. Corrado and Lt. Corrado responded to the location. PO Sheppard showed Lt. Corrado the alert on his phone and asked him what he thought. Lt. Corrado viewed it, and then told PO Sheppard and PO Gomez to arrest § 87(2)(b). Lt. Corrado, PO Sheppard, and PO Gomez told § 87(2)(b) that they were bringing him back to the stationhouse to check whether he should be arrested. PO Sheppard did not know the provisions of Interim Order 73 and had not previously been notified that it was in effect. Prior to this date, PO Sheppard had not encountered any persons with the same status that § 87(2)(b) had on his license check (Board Review 04).

Lt. Corrado testified that PO Sheppard and PO Gomez called him to the location because a search of § 87(2)(b)'s identification returned a message that read, 'Marijuana-Must Arrest,' displayed on the department phone. A 'Must Arrest' message usually generates when a person has an open warrant or I-Card. § 87(2)(b) did not have any open warrants or I-Cards, and this message did not provide any other information. Lt. Corrado told the officers to bring § 87(2)(b) to the stationhouse to do a more detailed check on the computer, because the desktop computer at the stationhouse is easier to navigate and contains more details. Lt. Corrado could not call an officer at the stationhouse to conduct this check because the only officer at the stationhouse was the desk officer, whose responsibility is to supervise the stationhouse, and the telephone switchboard operator, who was a civilian and did not have access to the DAS system. Lt. Corrado did not see or smell any marijuana in § 87(2)(b)'s vehicle, and neither officer informed him of any such suspicion. Lt. Corrado told § 87(2)(b) that something came up under his name and that the officers needed to check it out, so they were going to take him back to the stationhouse, and would be let go from the stationhouse if the status did not apply. PO Sheppard frisked and

searched § 87(2)(b) and no marijuana or other illegal items were recovered. At the stationhouse, either PO Sheppard or PO Gomez conducted a check for the ‘Marijuana-Must Arrest’ status. Lt. Corrado stated that, according to the command log, § 87(2)(b) was released from the holding cells with a ‘B’ summons for excessive window tints, twenty-one minutes after he was first brought to the stationhouse. Prior to this incident, Lt. Corrado had not encountered any person who had a ‘Must Arrest’ status. Lt. Corrado stated that he was familiar with the provisions in Interim Order 73, but thought § 87(2)(b) might have something active and wanted to verify. Lt. Corrado did not bring § 87(2)(b) back to the stationhouse for any other reason (Board Review 07).

PO Gomez’s body-worn camera footage captured the incident. The footage is consistent with all testimonies. The footage begins while PO Sheppard and PO Gomez are checking § 87(2)(b)’s identification, and “Marijuana-Must Arrest-On Parole” is displayed on the department phone. PO Sheppard and PO Gomez call Lt. Corrado to the location, and show Lt. Corrado the display on the phone. Lt. Corrado states that he does not know what the display means. Lt. Corrado then tells PO Sheppard and PO Gomez to bring § 87(2)(b) to the stationhouse to run him through the computers. Lt. Corrado informs § 87(2)(b) that they are bringing him to the stationhouse and that he will be released with a summons if they determine he should not be arrested. PO Sheppard handcuffs, frisks, and searches § 87(2)(b) brings § 87(2)(b) to his police vehicle, and drives § 87(2)(b) to the precinct stationhouse, where he searches him and lodges him in a holding cell (Board Review 02).

Patrol Guide Procedure 208-03 states that officers must immediately field frisk and search a prisoner after the arrest has been effected and the prisoner has been handcuffed (Board Review 08).

§ 87(2)(b), § 87(2)(g)

Interim Order 73, issued on August 31, 2018, and effective as of September 1, 2018, updated the NYPD policy for enforcement of marijuana possession. Under this Order, officers are to issue criminal court summonses in lieu of arrest, for marijuana possession, to qualified violators. One disqualifying factor for receiving a summons is if a person is “burning marijuana and is on parole or probation.” In this circumstance, the Domain Awareness System inquiry will read, “Marijuana-Must Arrest,” followed by the reason (Board Review 09).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 10).
- Lt. Nicholas Corrado has been a member-of-service for 11 years and has been a subject in four CCRB complaints and eight allegations, none of which were substantiated. Lt. § 87(2)(g)
- PO Ali Sheppard has been a member-of-service for 13 years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- A Freedom-of-Information Law request was sent to the New York City Office of the Comptroller on December 5, 2018. This file will be updated upon receipt of this request (Board Review 11)
- § 87(2)(b)

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date